STATE OF CONNECTICUT

Senate

File No. 523

General Assembly

January Session, 2021

Substitute Senate Bill No. 1071

Senate, April 19, 2021

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Subsection (g) of section 2-90 of the general statutes is
- 2 repealed and the following is substituted in lieu thereof (Effective October
- 3 1, 2021):
- 4 (g) Each state agency shall keep its accounts in such form and by such
- 5 methods as to exhibit the facts required by said auditors and, the
- 6 provisions of any other general statute notwithstanding, shall make all
- 7 records and accounts available to them or their agents, upon demand.
- 8 Notwithstanding any provision of the general statutes, no state agency
- 9 may deny the auditors access to their records or accounts.
- 10 Sec. 2. (NEW) (Effective October 1, 2021) As used in this section,
- 11 "contract", "state contracting agency", "data" and "contractor" have the
- same meanings as provided in section 4e-1 of the general statutes. Any

contract between a state contracting agency and a contractor that is entered into, renewed or amended on or after October 1, 2021, shall contain a provision authorizing the state contracting agency to access any data concerning such contract that is in the possession or control of the contractor upon demand in a format prescribed by the state contracting agency at no additional cost to such agency.

- Sec. 3. Subsection (c) of section 2-90 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1*, 2021):
- 21 (c) Said auditors shall audit, on a biennial basis if deemed most 22 economical and efficient, or as frequently as they deem necessary, the 23 books and accounts, records of operations and activities, systems and 24 data of each officer, department, commission, board and court of the 25 state government, all institutions supported by the state and all public 26 and quasi-public bodies, politic and corporate, created by public or 27 special act of the General Assembly and not required to be audited or 28 subject to reporting requirements, under the provisions of chapter 111. 29 Each such audit may include an examination of any relevant 30 information concerning the department, commission, board or court of 31 state government being audited that is in the possession or control of a 32 private entity that has a contract with such department, commission, 33 board or court, and such information shall be provided upon demand 34 in a format prescribed by the auditors at no cost to the auditors or the 35 department, commission, board or court. Each such audit may include 36 an examination of performance in order to determine effectiveness in 37 achieving expressed legislative purposes. The auditors shall report their 38 findings and recommendations to the Governor, the State Comptroller 39 and the joint standing committee of the General Assembly having 40 cognizance of matters relating to appropriations and the budgets of state 41 agencies.
 - Sec. 4. (NEW) (*Effective October 1, 2021*) On and after October 1, 2021, any state agency proposing to enter into or amend a contract for the purchase of auditing services shall (1) notify the Auditors of Public Accounts of such contract at least fifteen days prior to entering into or

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amending such contract, and (2) not enter into or amend such contract until the Auditors of Public Accounts have advised the agency whether the auditing services could be provided by said auditors. As used in this section, "state agency" has the same meaning as provided in section 4-37e of the general statutes and "contract" does not include any personal service agreement subject to section 4-215 or 4-216 of the general

- Sec. 5. Subsection (a) of section 10-91g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2021):
- 56 (a) As used in this section and sections 10-91h to 10-91l, inclusive, 57 "private provider of special education services" means any private 58 school or private agency or institution, including a group home, that 59 receives, directly or indirectly, any state or local funds as a result of providing special education services to any student with an 60 61 individualized education program or for whom an individual services 62 plan has been written by the local or regional board of education 63 responsible for educating such student.
- Sec. 6. Section 1-122 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

[The] In accordance with the provisions of section 2-90, as amended by this act, the Auditors of Public Accounts shall biennially conduct a compliance audit of each quasi-public agency's activities during the agency's two fiscal years preceding each such audit or contract with a person, firm or corporation for any such audit or audits. Each such audit shall determine whether the quasi-public agency has complied with its regulations concerning affirmative action, personnel practices, the purchase of goods and services, the use of surplus funds and the distribution of loans, grants and other financial assistance. Each audit shall include a review of all or a representative sample of the agency's activities in such areas during the relevant fiscal years. The Auditors of Public Accounts shall submit each audit report to the Governor. Each quasi-public agency shall pay the cost of conducting such biennial

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statutes.

79 compliance audit of the agency.

- Sec. 7. Section 31-426 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):
 - (a) The Connecticut Retirement Security Authority shall keep an accurate account of all its activities, receipts and expenditures and shall submit, in accordance with the provisions of section 11-4a, a report detailing such activities, receipts and expenditures to the Connecticut Retirement Security Authority board of directors, the Governor, the Office of Auditors of Public Accounts and the joint standing committees of the General Assembly having cognizance of matters relating to labor and finance, revenue and bonding on or before December thirty-first annually. Such report shall be in a form prescribed by the board and shall include projected activities of the authority for the next fiscal year. [and shall be subject to approval by the Auditors of Public Accounts.]
 - (b) The Auditors of Public Accounts may conduct a full audit of the books and accounts of the authority pertaining to such activities, receipts and expenditures, personnel, services or facilities, in accordance with the provisions of chapter 12 and section 2-90, as amended by this act. For the purposes of such audit, the Auditors of Public Accounts shall have access to the properties and records of the authority. [, and may prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by the authority.]
 - (c) The authority shall enter into memoranda of understanding with the State Comptroller pursuant to which the authority shall provide, in such form and manner as prescribed by the State Comptroller, information that may include, but need not be limited to, the current revenues and expenses of the authority, the sources or recipients of such revenues or expenses, the date such revenues or expenses were received or dispersed and the amount and the category of such revenues or expenses. The State Comptroller shall also enter into such memoranda of understanding.
- Sec. 8. Subsection (e) of section 4b-21 of the general statutes is

111 repealed and the following is substituted in lieu thereof (Effective July 1, 112 2021):

- 113 (e) After receiving notification from the secretary that such land, 114 improvement or interest may be treated as surplus, the Commissioner 115 of Administrative Services shall offer to convey such land, improvement or interest to the municipality in which the land, improvement or interest is located, including, but not limited to, by selling, leasing, 118 exchanging or entering into agreements concerning such land, 119 improvement or interest, provided (1) prior to such conveyance, the 120 municipality by vote of its legislative body accepts such conveyance, and (2) a resolution of such municipal action, verified by the clerk of the 122 municipality, is delivered to the Commissioner of Administrative 123 Services not more than [one hundred twenty] <u>sixty</u> days after receiving 124 notice from the commissioner regarding the proposed conveyance. If 125 the municipality fails to deliver such resolution to the commissioner 126 [one-hundred-twenty-day] within sixty-day period, 127 municipality shall be deemed to have declined the proposed 128 conveyance, provided the commissioner may extend the [one-hundred-129 twenty-day period sixty-day deadline by not more than an additional 130 [sixty] thirty days. The municipality shall waive all rights to purchase the land, improvement, interest or part thereof if the municipality declines or is deemed to have declined the conveyance of such land, 133 improvement, interest or part thereof.
- 134 Sec. 9. Section 8-260 of the general statutes is repealed and the 135 following is substituted in lieu thereof (*Effective October 1, 2021*):
 - Within the first ninety days of each calendar year, the authority shall report on its operations for the preceding calendar year to the Governor. The authority shall make a report to the General Assembly on or before March fifteenth in each year that the General Assembly meets in general session. The report shall include a summary of the activities of the authority, a complete operating and financial statement and recommendations for legislation to promote the purposes of the authority. The accounts of the authority shall be subject to [annual]

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- 144 <u>biennial</u> audits by the State Auditors of Public Accounts.
- Sec. 10. Section 15-120kk of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective October 1, 2021*):
- On or before December fifteenth each year, the authority shall report,
- in accordance with the provisions of section 11-4a, to the Governor and
- 149 the joint standing committees of the General Assembly having
- 150 cognizance of matters relating to transportation and commerce. Such
- 151 report shall include a summary of the activities of the authority, a
- 152 complete operating and financial statement and recommendations for
- legislation to promote the purposes of the authority. The accounts of the
- authority shall be subject to [annual] biennial audits by the state
- 155 Auditors of Public Accounts.
- Sec. 11. Section 32-42 of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective October 1, 2021*):
- 158 The corporation shall be subject to examination by the State
- 159 Treasurer. The accounts of the corporation shall be subject to [annual]
- biennial audits by the State Auditors of Public Accounts.
- Sec. 12. Section 1-86e of the general statutes is repealed and the
- 162 following is substituted in lieu thereof (*Effective October 1, 2021*):
- 163 (a) No person hired by the state as a consultant or independent
- 164 contractor, and no person employed by such consultant or independent
- 165 <u>contractor</u>, shall:
- 166 (1) Use the authority provided [to the person] under the contract, or
- any confidential information acquired in the performance of the
- 168 contract, to obtain financial gain for the [person] consultant or
- 169 <u>independent contractor</u>, an employee of the [person] <u>consultant or</u>
- independent contractor or a member of the immediate family of any
- such [person] consultant, independent contractor or employee;
- 172 (2) Accept another state contract which would impair the
- 173 independent judgment of the [person] consultant, independent

174 <u>contractor or employee</u> in the performance of the existing contract; or

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(3) Accept anything of value based on an understanding that the actions of the [person] <u>consultant</u>, <u>independent contractor or employee</u> on behalf of the state would be influenced.

- (b) No person shall give anything of value to a person hired by the state as a consultant or independent contractor or an employee of a consultant or independent contractor based on an understanding that the actions of the consultant, [or] independent contractor or employee on behalf of the state would be influenced.
- Sec. 13. Subsection (a) of section 10-292 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2021):
- 186 (a) Upon receipt by the Commissioner of Administrative Services of 187 the final plans for any phase of a school building project as provided in 188 section 10-291, said commissioner shall promptly review such plans and 189 check them to the extent appropriate for the phase of development or 190 construction for which final plans have been submitted to determine 191 whether they conform with the requirements of the Fire Safety Code, 192 the Department of Public Health, the life-cycle cost analysis approved 193 by the Commissioner of Administrative Services, the State Building 194 Code and the state and federal standards for design and construction of 195 public buildings to meet the needs of persons with disabilities and the 196 school safety infrastructure criteria, developed by the School Safety Infrastructure Council, pursuant to section 10-292r, and if acceptable a 197 198 final written approval of such phase shall be sent to the town or regional 199 board of education and the school building committee. No phase of a 200 school building project, subject to the provisions of subsection (c) or (d) 201 of this section, shall go out for bidding purposes prior to such written 202 approval.
- Sec. 14. Section 22a-263 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

The directors of the authority shall meet at least monthly at the call of the chairman and may meet more frequently if necessary and desirable. It shall maintain at all times minutes of its meetings including its considerations, deliberations, decisions and resolutions, which minutes shall be considered public records. It shall maintain all necessary records and data with respect to its operations and shall report quarterly to the Governor and annually to the General Assembly, upon its operations. Such reports shall include but not be limited to a listing of the number and type of waste management service contracts entered into with local government units and persons, and the charges therefor; a listing of the contracts entered into for the services of private industry in the operation of systems and facilities; a map showing the location of all facilities owned or leased by the authority; a schedule of the amounts of waste received and processed in such facilities; a listing of the outstanding issues of notes and bonds of the authority and the payment status thereof; a budget showing the administrative expenses of the authority; a report of revenues of the authority from all sources and of the redistribution of any surplus revenues. The authority shall be subject to audit by the state Auditors of Public Accounts in accordance with [normal audit practices prescribed for departments, boards, commissions and other agencies of the state] chapter 12 and section 2-90, as amended by this act.

- Sec. 15. Subsection (c) of section 10-357b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2021):
 - (c) The State Education Resource Center shall be subject to (1) rules, regulations and restrictions on purchasing, procurement, personal service agreements and the disposition of assets generally applicable to Connecticut state agencies, including those contained in titles 4, 4a and 4b and section 4e-19, and (2) audit by the Auditors of Public Accounts under chapter 12 and section 2-90, as amended by this act.
- Sec. 16. Subsection (d) of section 17a-10c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October*

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238 1, 2021):

239 (d) On and after January 1, 2020, the caseworker of any child placed 240 in an out-of-home placement by the Commissioner of Children and 241 Families pursuant to an order of temporary custody or commitment 242 shall meet in private with the child annually and any time the child is 243 placed in a new out-of-home placement, provided the child is of an 244 appropriate age. At such meeting, the caseworker shall, if applicable 245 and appropriate: (1) Provide the child with a copy of the Sibling Bill of 246 Rights, (2) review the Sibling Bill of Rights with the child, and (3) explain 247 to the child that the child may contact the caseworker, the child's 248 attorney, the Department of Children and Families regional office, the 249 Office of Community Relations within the Department of Children and 250 Families [Office of the Ombudsman] or the Office of the Child Advocate 251 if the child feels that his or her rights under the Sibling Bill of Rights 252 have been violated, and provide the child with contact information for 253 such caseworker, such regional office, the Office of Community 254 Relations within the Department of Children and Families Office of the 255 Ombudsman] and the Office of the Child Advocate. The caseworker 256 shall certify to the commissioner on a form prescribed by the 257 commissioner that such caseworker has complied with the provisions of 258 this subsection. Such form shall include (A) an acknowledgment, for 259 signature by the child, if appropriate, that such caseworker provided a 260 copy of the Sibling Bill of Rights to the child and reviewed the Sibling 261 Bill of Rights with the child, and (B) notice that, if the child refuses to 262 sign such acknowledgment, such caseworker shall indicate on the form 263 that the child refused to sign such acknowledgment.

Sec. 17. Subsection (d) of section 17a-10e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2021):

(d) The caseworker of any child placed in an out-of-home placement by the Commissioner of Children and Families pursuant to an order of temporary custody or commitment shall meet in private with the child annually and any time the child is placed in a new out-of-home

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placement, provided the child is of an appropriate age. At such meeting, the caseworker shall: (1) Provide the child with a copy of the Children in Care Bill of Rights and Expectations, (2) review the Children in Care Bill of Rights and Expectations with the child, (3) explain to the child that the child may contact the caseworker, the child's attorney, the Department of Children and Families regional office, the Office of Community Relations within the Department of Children and Families [Office of the Ombudsman] or the Office of the Child Advocate if the child feels that his or her rights have been violated or expectations have not been met under the Children in Care Bill of Rights and Expectations, and provide the child with contact information for such caseworker, such regional office, the Office of Community Relations within the Department of Children and Families [Office of the Ombudsman] and the Office of the Child Advocate, and (4) explain to the child that if the child is in physical danger or experiences a medical emergency, the child may dial or send a text message to 9-1-1. The caseworker shall certify to the commissioner on a form prescribed by the commissioner that such caseworker has complied with the provisions of this subsection. Such form shall include (A) an acknowledgment, for signature by the child, if appropriate, that such caseworker provided a copy of the Children in Care Bill of Rights and Expectations to the child and reviewed the Children in Care Bill of Rights and Expectations with the child, and (B) notice that, if the child refuses to sign such acknowledgment, such caseworker shall indicate on the form that the child refused to sign such acknowledgment.

Sec. 18. Section 2-90b of the general statutes is repealed. (*Effective October 1, 2021*)

This act shall take effect as follows and shall amend the following sections:			
Section 1	October 1, 2021	2-90(g)	
Sec. 2	October 1, 2021	New section	
Sec. 3	October 1, 2021	2-90(c)	
Sec. 4	October 1, 2021	New section	
Sec. 5	October 1, 2021	10-91g(a)	

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Sec. 6	October 1, 2021	1-122
Sec. 7	October 1, 2021	31-426
Sec. 8	July 1, 2021	4b-21(e)
Sec. 9	October 1, 2021	8-260
Sec. 10	October 1, 2021	15-120kk
Sec. 11	October 1, 2021	32-42
Sec. 12	October 1, 2021	1-86e
Sec. 13	October 1, 2021	10-292(a)
Sec. 14	October 1, 2021	22a-263
Sec. 15	October 1, 2021	10-357b(c)
Sec. 16	October 1, 2021	17a-10c(d)
Sec. 17	October 1, 2021	17a-10e(d)
Sec. 18	October 1, 202	Repealer section

GAE Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various changes to statutes concerning the state auditors that have no fiscal impact.

The bill explicitly prohibits state agencies from denying the auditors access to their records or accounts. It requires state agencies to notify the auditors at least 15 days before contracting for auditing services and prohibits agencies from entering into these contracts until the auditors advise whether they can perform the work instead.

Beginning October 1, 2021, the bill requires any executed, renewed, or amended contract between a state contracting agency and a contractor to contain a data access provision. This provision must authorize the state agency to access any contract-related data that the contractor possesses or controls upon demand and in the agency's prescribed format at no additional cost.

The bill also reduces the amount of time by which a municipality must notify the Department of Administrative Services (DAS) of its intention to acquire surplus state property from 120 days to 60 days. This has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis sSB 1071

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.

SUMMARY

This bill makes various changes in statutes about state auditors, auditing, and other related topics. Among other things, the bill:

- 1. explicitly prohibits state agencies from denying the auditors access to their records or accounts (§ 1);
- 2. (a) requires certain new or amended state contracts to contain a provision allowing the agency to access any relevant data upon demand, at no additional cost, and in the agency's prescribed format and (b) similarly allows the auditors access to this data when auditing the agency (§§ 2 & 3);
- 3. requires state agencies to notify the auditors at least 15 days before contracting for auditing services and prohibits agencies from entering into these contracts until the auditors advise whether they can perform the work instead (§ 4);
- 4. specifies that private providers of special education services are subject to auditing requirements regardless of whether they receive state or local funds directly or indirectly (§ 5);
- 5. eliminates provisions (a) requiring the state auditors to approve an annual report by the Connecticut Retirement Security Authority and (b) authorizing the state auditors to prescribe the authority's accounting methods and rendering of periodical reports (§ 7);
- 6. reduces the (a) amount of time by which a municipality must

notify the Department of Administrative Services (DAS) of its intention to acquire surplus state property from 120 days to 60 days and (b) maximum extension that DAS may grant on this deadline from 60 days to 30 days (§ 8);

- 7. conforms certain quasi-public statutes to the general biennial audit requirement (§§ 6, 9-11 & 14-15);
- 8. extends provisions on prohibited activities that apply to statehired consultants and independent contractors under the ethics code to also apply to people they employ (§ 12);
- 9. requires DAS, when reviewing final plans any phase of a school building project for conformity with certain requirements (e.g., the State Building Code), to also review them for conformity with school safety infrastructure criteria (§ 13);
- 10. replaces references to the Office of the Ombudsman within the Department of Children and Families with its Office of Community Relations (§§ 16 & 17); and
- 11. repeals a provision requiring state auditors to audit Bradley Enterprise Fund reimbursements to the Department of Emergency Services and Public Protection (§ 18).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2021, except the change to surplus property deadlines is effective July 1, 2021.

§§ 2 & 3 — DATA ACCESS UNDER STATE CONTRACTS State Agency Access (§ 2)

Beginning October 1, 2021, the bill requires any executed, renewed, or amended contract between a state contracting agency and a contractor to contain a data access provision. This provision must authorize the state agency to access any contract-related data that the contractor possesses or controls upon demand and in the agency's prescribed format at no additional cost.

It applies to any executive branch agency, board, commission, department, office, institution or council. It does not apply to the judicial branch, legislative branch, or the offices of the secretary of the state, state comptroller, attorney general, or state treasurer, with respect to their constitutional functions, or any state agency with respect to contracts specific to the constitutional and statutory functions of the state treasurer's office.

Auditors' Access (§ 3)

Under current law, the state auditors must audit, on a biennial basis or as frequently as they deem necessary, the books and accounts of each officer, department, commission, board, and court of state government; all institutions supported by the state; and all public and quasi-public bodies, politic and corporate, created by public or special act of the General Assembly and not required to be audited or subject to reporting requirements under the municipal auditing act.

The bill expands this requirement to also include an audit of records of operations and activities and systems and data of these entities. It specifies that each audit may include an examination of any relevant information about the department, commission, board, or court of state government being audited that is possessed or controlled by a private entity contracted with these entities. The bill requires this information to be provided upon demand in a format prescribed by the auditors at no cost to the auditors or the department, commission, board or court.

§ 4 — AUDITING CONTRACTS

Beginning October 1, 2021, any state agency must notify the state auditors at least 15 days before entering into or amending a contract to purchase auditing services. It prohibits agencies from entering into or amending such a contract until the auditors have advised whether they can provide the auditing services instead. The bill applies this requirement to each state board, authority, commission, department, office, institution, council or other agency of the state, including public higher education institution.

It excludes personal service agreements that (1) have a cost between \$20,000 to \$50,000 and a term of up to one year and (2) cost more than \$50,000 or exceed a one-year term. Under existing law, the Office of Policy and Management secretary must immediately notify the state auditors of any application that she receives for approval of a non-competitively bid personal service agreement for audit services. She must give the auditors the opportunity to advise her as to whether the services (1) are necessary and, if so, (2) could be provided by the auditors (CGS § 4-215).

§ 12 — CONFLICTS OF INTEREST FOR CONSULTANTS AND INDEPENDENT CONTRACTORS

Currently, the law addressing conflicts of interest involving consultants and independent contractors is limited to those hired by state agencies. The bill similarly extends these prohibitions to persons employed by these consultants and independent contractors. The prohibited activities include:

- 1. using the person's contractual authority, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, their employee, or their immediate family member;
- 2. accepting another state contract that would impair the person's independent judgment in the performance of the existing contract; or
- 3. accepting anything of value based on an understanding that the actions of the person on behalf of the state would be influenced.

Current law similarly prohibits a person from giving anything of value to a consultant or independent contractor hired by the state based on an understanding that the actions of such consultant or independent contractor would be influenced. Under the bill, this prohibition extends to giving anything of value to a consultant's or an independent contractor's employee under these circumstances.

BACKGROUND

Related Bills

sSB 1015 (§ 4), favorably reported by the Government Administration and Elections Committee, contains the same surplus property provision as in (§ 8).

sHB 6426 (§ 2) (File 87), favorably reported by the Transportation Committee, amends the same statute being repealed by (§ 18).

sHB 6574, favorably reported by the Government Administration and Elections Committee, contains the same ethics code expansion to people hired by state-hired consultants and independent contractors (§ 12).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute Yea 19 Nay 0 (03/31/2021)